FINAL RECOMMENDATIONS FOR THE RESPIRATORY CARE BOARD

Recommendations of the Department of Consumer Affairs and the Joint Sunset Review Committee

ISSUE #1. (CONTINUE THE BOARD AND REGULATE THE PROFESSION?) Should the licensing and regulation of respiratory care therapists be continued by the Respiratory Care Board?

Recommendation #1: ***Recommend the continuance of the Respiratory Care Board (RCB) and the regulation of respiratory care therapists.***

Comments: The Board's sunset should be extended so that the Board may continue to carry out its consumer protection mandate and its licensing function. Respiratory care providers perform critical lifesaving and life support procedures prescribed by physicians that directly affect major organs of the body. Clearly, the enormous health implications of this care necessitate a vigilant regulatory program.

ISSUE #2. (SHOULD THE BOARD CONTINUE TO LOOK AT THE NEED FOR REGULATION OF HOME MEDICAL DEVICE PROVIDERS, PULMONARY FUNCTION TECHNICIANS, AND POLYSOMNOGRAPHY TECHNICIANS?) Should the RCB continue to study the need for regulation of these technicians?

Recommendation #2: ***The Department and the Joint Committee support: a) the Board's effort to review the function and skill of currently unlicensed technicians and b) further study to determine the need for regulation of these technicians.***

Comments: With an increasing reliance on home health care providers, in the homes of patients without supervision, it is possible that unqualified personnel are providing respiratory care services. Consumers who receive health care services in their homes are more vulnerable than those receiving care in a hospital setting and should be assured of quality, safe care by skilled providers.

ISSUE #3. (ADOPT A SUBSTANTIAL RELATIONSHIP POLICY?) Should the RCB adopt a substantial relationship policy for disciplining licensees?

Recommendation #3: ***Recommend a comprehensive review of the Board's disciplinary policies to ensure that its disciplinary actions are relevant to consumer protection and***

appropriate to the violations. In addition, the Board's statute should ensure that penalties are based on the facts of each case. In particular, the statute should ensure that in situations where license revocation is sought, such action is taken only if necessary to protect the public.

Comments: The Board continues to direct a significant portion of its resources toward enforcement. The Board has demonstrated its commitment to consumer protection through a vigorous enforcement program. There is a concern that the Board's enforcement efforts may be excessive. While the Department commends the Board's proactive approach to enforcement, we believe the Board should ensure that its disciplinary actions are not excessive.

ISSUE #4. (REVIEW BARRIERS TO RESIDENCY AND LICENSURE FOR INTERNATIONAL MEDICAL GRADUATES (IMGs)?) Should the Board designate a staff liaison to work to work with IMGs and the programs that assist them?

Recommendation #4: ***The Board should designate a staff liaison to work with IMGs and programs devoted to facilitating their licensure and re-entry into their profession.***

Comments: The Task Force on Culturally and Linguistically Competent Physicians and Dentists, co-chaired by the DCA Director, has been examining issues pertaining to the need to increase access to health care for low-income consumers living in medically underserved areas.

The Task Force has held five public hearings in communities throughout the State to assess consumers need for providers who are culturally and linguistically competent. [1] In each of these communities, the Task Force has heard from International Medical Graduates (IMGs) who wish to practice in the U.S. health care delivery system in some capacity, but may need additional education and training for licensure. In an effort to assist these IMGs in their effort to re-enter either their chosen profession or an alternative health related profession, programs have been established that assess their skills, identify possible professions and educate them about licensing and education requirements. It is possible that many of these IMGs may be qualified for careers as respiratory care therapists, but are unaware of the licensing requirements and professional options that exist.

The Task Force intends to look more closely at the barriers to residency and licensure encountered by IMGs. In the meantime, the Department recommends the Board designate a staff liaison to work with IMGs and the programs devoted to facilitating their licensure and re-entry into their profession.

[1] San Diego, Salinas, Oxnard, San Francisco, Sacramento and Bell Gardens, California.

Additional Recommendation of the Joint Sunset Review Committee

ISSUE #5. (CHANGE IN EDUCATION REQUIREMENT?) Should the Board require an AA Degree as a requirement of licensure and by what means is the Board approving schools?

Recommendation #5: ***The Board's changes in educational requirements and reliance upon national accreditation should be ratified by the Legislature by enacting a statute that (i) codifies the new two-year and AA requirements; and (ii) specifically permits the Board to fulfill its school approval obligations by using national accreditation; however, if the Board is to rely solely upon national accreditation, it must also annually contact the post-secondary schools bureau to see if any of the schools are then or have been disciplined or investigated.***

In the meantime, the Board should immediately cease requiring an AA degree until, at most, the new statute is enacted or, at least, the Board's current regulations are changed to permit requiring an AA.

Comments: In 1997, the Board adopted regulations (operative 01/10/98) to 1) establish and define the educational curriculum for an approved respiratory care program and 2) require, on and after July 1, 2000, license applicants to have completed two years of qualifying education. Prior to 1998, the Board's regulations did not address educational requirements. The Board's statutory provisions (last amended in 1994) require only that an applicant be a graduate of an accredited respiratory therapy program and consider any program accredited by an association or agency recognized by the US Department of Education to be approved unless determined otherwise by the Board. Because of the lack of specificity, Board staff noticed significant inconsistencies in the curriculum provided to respiratory therapy students. While many programs required two years of study, others required only one year. Comments received by the Board during the public comment period, requested only technical clarifying changes. These comments were accepted by the Board and incorporated into the regulations prior to their adoption.

The JLSRC expressed concern that the Board had significantly altered the educational requirements through regulations rather than in statute and questioned the Board's legal authority to make such a significant change through the regulatory process. The Board acknowledges these concerns and is conducting a comprehensive review of its educational requirements. Specifically, the Board is considering the need to clarify the requirement for an AA degree; possible exemptions to allow credit for experience of licensure in another state in lieu of some education requirements; the need to enhance the clinical experience requirements for foreign applicants; the need to approve schools and/or evaluate whether accreditation agencies are performing quality reviews; and the need for the transcript review by Board staff.